

## **REMARKS**

In response to the final Office Action dated October 10, 2008, the Assignee respectfully requests continued examination and reconsideration based on the above amendments and on the following remarks.

Claims 1, 3-4, 7-9, 12, 14-20, 22-29, 31-32, 34-36, and 37-47 are pending in this application. Claims 2, 5-6, 10-11, 13, 21, 30, 33, and 37-42 have been, or were previously, canceled without prejudice or disclaimer.

### **Rejection of Claims over *Armstrong***

The Office rejected claims 1, 3-4, 7-9, 12, 14, 16-19, 22-29, 31-32, 34-36, and 37-47 under 35 U.S.C. § 103 (a) as being obvious over U.S. Patent 6,807,423 to Armstrong, *et al.*

First, claims 37-42 have been canceled without prejudice or disclaimer, so the rejection of these claims is moot.

The remaining claims are not obvious over *Armstrong*. These claims recite, or incorporate, features that are not taught or suggested by *Armstrong*. Independent claim 1, for example, recites “*retrieving an availability of a plurality of contact devices associated with the second user, with each contact device having an interval of time at which the second user is available to receive communications at each contact device.*” Support for these features may be found at least in the as-filed application at page 11, Table 1. Independent claim 1 also recites “*providing a graphical user interface that lists the second user’s availability and presence information according to a current time and day, such that only the second user’s available contact device at the current time and day is presented.*” Support for these features may be found in the as-filed application at page 9, line 16 through page 10, line 12 and at FIG. 3. Independent claims 12, 24, and 43 recite similar features.

*Armstrong* does not obviate all these features. As the Assignee has previously explained, *Armstrong* monitors the presence of a “watched party,” and each “watched party” is given a unique identifier. See U.S. Patent 6,807,423 to Armstrong, *et al.* at column 6, lines 5-7. *Armstrong* has been thoroughly discussed in the record, so no further explanation is necessary. Still, though, *Armstrong* fails to teach or suggest “*retrieving an availability of a plurality of contact devices associated with the second user, with each contact device having an interval of time at which the second user is available to receive communications at each contact device.*” The patent to Armstrong, *et al.* also fails to teach or suggest “*providing a graphical user interface that lists the second user’s availability and presence information according to a current time and day, such that only the second user’s available contact device at the current time and day is presented.*” Because *Armstrong* is silent to at least these claimed features, one of ordinary skill in the art would not think that independent claims 1, 12, 24, and 43.

Claims 1, 3-4, 7-9, 12, 14, 16-19, 22-29, 31-32, 34-36, and 43-47, then, are not obvious over *Armstrong*. Independent claims 1, 12, 24, and 43 recite many features that are not taught or suggested by *Armstrong*. The dependent claims incorporate these features and recite additional features. One of ordinary skill in the art, then, would not think that claims 1, 3-4, 7-9, 12, 14, 16-19, 22-29, 31-32, 34-36, and 43-47 are obvious. The Office is respectfully requested to remove the § 103 (a) rejection of these claims.

### **Rebuttal of “Official Notice”**

The Office’s use of “Official Notice” is unreasonable. As the Assignee previously explained, the Office uses “Official Notice” to unreasonably reject the claims. Even if password access to profile information was known, the Office argues that “*exchanging the second user’s code number and password with the first user, thus allowing the first user to access the second user’s profile information,*” would have been obvious in light of *Armstrong*’s disclosure. This assertion, however, is not reasonably based on the teachings of *Armstrong*. The patent to *Armstrong* assigns a “unique presence management identifier” to each watched party, *see* column 6, lines 7-9, and *Armstrong* explains that this “unique presence management identifier” can be used by others when attempting to contact the watched party. See, *e.g.*, *Armstrong* at column 6,

lines 44-47. *Armstrong*, however, also discloses “personal information” that each watched party enters, such as email address, telephone number, “context information,” preferences, and rules. *Id.* at column 6, lines 7-24. So, whether or not *Armstrong*’s “unique presence management identifier” is shared with other users, no where does this “unique presence management identifier” serve as the claimed “*password to access the profile information.*” Moreover, as *Armstrong*’s “unique presence management identifier” is not the claimed “*password,*” the “unique presence management identifier” does not allow “*the first user to access the second user’s profile information.*” So, again, even if password access to profile information was known, this “Official notice” does not reasonably imply that “*exchanging the second user’s code number and password with the first user, thus allowing the first user to access the second user’s profile information,*” would have been obvious in light of *Armstrong*’s disclosure.

*Armstrong*’s “aggregates” do not support the Office’s assertions, either. The Office asserts that *Armstrong*’s “aggregates” “have a shared profile” and that users may “modify the profile in an equitable fashion.” Again, though, *Armstrong* makes no such teaching. The Office first cites to column 6, lines 39-47, which (as explained above) describe a “contact request” that is sent by the watching party. The watching party need not know any contact details and, instead, may simply use the watched party’s “unique presence management identifier” when attempting to contact the watched party. *See, e.g., Armstrong* at column 6, lines 44-47. *Armstrong*’s “aggregates” are then explained as “an aggregate of watched parties” or “watching parties.” *Id.* at column 8, lines 47-49. Aggregates are useful to “arrange meetings between the members of the group of friends.” *Id.* at column 8, lines 55-56. Aggregates are different from buddy lists in that aggregates have an “autonomous status” as do watched and watching parties. *Id.* at column 9, lines 8-15. An aggregate may have an owner or rules that control membership. *See id.* at column 9, lines 17-25. Aggregates may be formed by individuals or by an application or service, such as a conference call application. *See id.* at column 9, lines 27-41. A “quorum condition” may be required for the aggregate to act. *See id.* at column 9, lines 42-63.

The Office must now realize, then, that *Armstrong*’s “aggregates” do not teach what the Office alleges. No where does *Armstrong* explain that “aggregates” “have a shared profile,” as the Office alleges. No where does *Armstrong* explain that members of “aggregates” “modify the

profile in an equitable fashion,” as the Office alleges. These allegations are, quite simply, pure speculation without basis in fact.

The Office’s use of “Official Notice,” then, cannot support the rejection of the claims. Even if password access to profile information was known, the Office unreasonably uses this “Official Notice” to reject the claims. Whether or not *Armstrong*’s “unique presence management identifier” is shared with other users, no where does *Armstrong* teach or suggest that this “unique presence management identifier” serves as the claimed “*password to access the profile information.*” Moreover, no where does *Armstrong* teach or suggest that the “unique presence management identifier” allows “*the first user to access the second user’s profile information.*” So, again, even if password access to profile information was known, this “Official notice” does not reasonably imply that “*exchanging the second user’s code number and password with the first user, thus allowing the first user to access the second user’s profile information,*” would have been obvious in light of *Armstrong*’s disclosure. Moreover, no where does *Armstrong* explain that “aggregates” “have a shared profile,” as the Office alleges. No where does *Armstrong* explain that members of “aggregates” “modify the profile in an equitable fashion,” as the Office alleges. These allegations are, quite simply, pure speculation without basis in fact. The Assignee thus respectfully requests that the Office reconsider and re-evaluate the appropriateness of using this “Official Notice” beyond what is taught by *Armstrong*.

#### **Rejection of Claims over *Armstrong* & *Luzzetti***

Claims 15 and 20 were rejected under 35 U.S.C. § 103 (a) as being obvious over *Armstrong* in view of U.S. Patent 6,714,519 to Luzzetti *et al.* These claims depend from independent claim 12 and incorporate the same distinguishing features. As both *Armstrong* and *Luzzetti* have been thoroughly discussed in the record, no further discussion is necessary. Still, the proposed combination of *Armstrong* with *Luzzetti* fails to teach or suggest many of the features recited by independent claim 12. As the proposed combination of *Armstrong* with *Luzzetti* is silent to at least these claimed features, one of ordinary skill in the art would not think that claims 15 and 20 are obvious. The Office is respectfully requested to remove the § 103 (a) rejection of these claims.

If any issues remain outstanding, the Office is requested to contact the undersigned at (919) 469-2629 or [scott@scottzimmerman.com](mailto:scott@scottzimmerman.com).

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Scott P. Zimmerman", with a stylized flourish at the end.

Scott P. Zimmerman  
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